

INTERVIEW: *Elena Radu*

Romanian Constitutional Court Wrongfully Annulled the Presidential Elections

Jan. 11—*The following is an edited transcript of the Dec. 17, 2024 EIR interview with Elena Radu, an attorney in Romania, who is president of the Coalition for the Defense of the Rule of Law (CDRL). She was interviewed by EIR's Romanian correspondent Alexandra Bellea-Noury. For clarity, some questions have been condensed. The interview was conducted in Romanian and translated into English. Subheads have been added.*



Elena Radu Facebook page

Elena Radu, Romanian attorney.

Alexandra Bellea-Noury: In Germany, a press organization asked a question to the spokesperson of the Ministry of Foreign Affairs about the decision by the Romanian Constitutional Court (CCR) [to annul the presidential elections of November/December] and got the answer that the decision of the Constitutional Court must be respected because Romania is a democracy. Can you explain what powers the CCR has in Romania, and how the CCR exceeded its competence in annulling the presidential election of November 2024?

Elena Radu: According to the Romanian Constitution and legislation, namely Law 47/1992 which regulates the organization and functioning of the CCR, the CCR is only in charge of supervising, monitoring the electoral procedure and confirming the results. So, the CCR is not in charge of organizing electoral processes. As far as the procedure for the election of the President of Romania is concerned, it is regulated by Law 370/2004, which stipulates that the CCR has the power to accept the requests for annulment of the election results if certain conditions provided for by law are met: only in the situation where the voting and the voting results have been affected by fraud, in such a way as to alter the order of the candidates.

The CCR exceeded its powers in its ruling on Dec. 6 because it annulled an entire electoral process that was organized on the basis of government decisions. Government decisions can be annulled by the courts of justice, not by the CCR.

Moreover, in the first phase, on December 2 ... the CCR validated the results of the first round of elections, and stated that the second round of elections should be held.... Four days later, it changed its mind and issued a decision to annul the entire electoral process, even though it did not cancel the first decision it had adopted. This first decision was already being implemented by the Central Electoral Bureau; the voting in the second round was underway at polling stations abroad.

Taking Legal Action

Bellea-Noury: Together with other lawyers and candidate Călin Georgescu, you have launched a court action. Tell us more.

Radu: CCR decisions cannot be analyzed and annulled by another court. We have now found ourselves in a situation where the only state body that can annul—not the entire electoral process, but only the election results—has annulled this electoral process, exceeding the powers provided by law. We are in a situation where we do not have the right of access to a court that is provided for by law, because since the CCR is not competent to give such a ruling, there was no way for the legislature to have foreseen it.

However, since we are talking about electoral rights and the right of access to a court, I have applied to the Romanian court which is responsible for administering justice, with a request to annul the de-

cisions of the Central Electoral Bureau which implemented the CCR ruling, and to oblige the government to adopt a decision to organize the second round of elections. This obligation on the government would basically be a remedy for the violation of fundamental rights....

Fabricated Intelligence

Bellea-Noury: Certain intelligence notes on alleged Russian interference and illegalities in Georgescu's campaign were discussed on Nov. 28 by the Supreme Council for National Defense, under the chairmanship of President [Klaus] Iohannis, who then declassified them. The CCR then based its decision on it. Can you tell us why these intelligence notes were full of amateurism?

Radu: First of all, the secret service notes do not say anything concrete, but try to create confusion and suspicions that there was a possibility that the electoral process could have been affected. The STS [Service for Special Telecommunications] in charge of the IT&C [information technology & communications network] infrastructure has denied that there was any interference that could have affected the outcome of the vote in the first round.

If one looks chronologically at the order of events, and if we look at the contents of the declassified intelligence notes and the dates they are issued, for example the SRI [Romanian Information Service] note and its content, we see that they were prepared after the Supreme Council for National Defense's meeting of November 28, 2024, and were in fact an attempt to create some *pro causa* evidence ¹ to support the decision taken by the Supreme Council for National Defense's members on November 28. Some notes clearly did not exist on Nov. 28, namely the SRI note of Dec. 2, 2024 and the other SRI note. Its content refers to the number of subscriptions that a Telegram channel had on Dec. 1, 2024. It is clear that that note could not have existed on Nov. 28.

Bellea-Noury: Could we say that the Supreme Council for National Defense took first the decision to prosecute Georgescu and then created the arguments?

1. The fallacy of false cause (*non causa pro causa*) mislocates the cause of one phenomenon in another that is only seemingly related.

Radu: ... Only once they realized that a candidate who was not approved by the representatives of today's public authorities in Romania had obtained the highest number of votes, they tried to produce evidence to create a suspicion that the result would have been affected by the interference of a state actor.... Until today, December 17, we see that we do not have any criminal proceedings initiated against any person, i.e. there is not even a reasonable suspicion that any Romanian citizen has committed anything.

Bellea-Noury: Horațiu Potra [a private military contractor], presented as "Georgescu's mercenary heading towards the capital to create unrest" and preventively arrested, had no criminal prosecution?

Radu: ... If we look at what happened after December 4, we see that in Romania there was an attempt to intimidate on the one hand. And on the other hand, they tried to start criminal cases against people who had no connection, in fact, in those files, with candidate Georgescu; but they tried to publicize in the media in a certain way, so that those files would be linked to Georgescu.... Even in the notes of the intelligence services there is no direct reference to candidate Georgescu, or that candidate Georgescu knew or coordinated something!...

Bellea-Noury: What they mention in their intelligence notes is a social media campaign that any candidate does these days.

Radu: Yes, and what is clear is that although they conclude from the beginning that Romanian electoral law has been violated, they don't indicate any article that has been violated.... The SRI's note is not even a note of an intelligence service that can provide a clear situation, because, sorry, the SRI's notes are made as if they had taken some online rumors and started to put them on a piece of paper. I don't believe that a secret service of any state can draft papers that have no substance.

President Extends His Own Term

Bellea-Noury: On December 21, 2024, President Iohannis's term ends....

Radu: According to the Romanian Constitution,

the President of Romania can have a 5-year term.... The Constitution provides that the President's term of office can be extended only in exceptional situations, of war or catastrophe, and the extension can be made only by the Romanian Parliament, by organic law. Neither the Constitution nor Law 47/1992 confers on the Constitutional Court of Romania any right or competence to extend the President's term of office.... In the recitals of that judgment, which are binding as well as the operative part, the CCR comes and declares that the president's term of office will be extended, according to Article 83 Paragraph 3 of the Constitution, until the swearing in of the newly elected president.... Two to three hours before, just before this decision was motivated and the reasoning was made public, the President of Romania held a press conference and said: "I remain President until the new President-elect is sworn in, but this will only be done after the new Parliament will take office, a new government will be sworn in, and new elections will be organized."

So, in chronological order of events, we see that

first the President came and said "this article will apply to me"; and a few hours later, we see in the declarations of the CCR ruling exactly what the President had said two hours earlier, which shows interference by the President of Romania, with the help of the secret services, in the work of the CCR judges.

Bellea-Noury: Is there any evidence in the declassified intelligence notes, upon which the CCR decision was based, that Călin Georgescu had been aided by the Russians?

Radu: None. The note extracted from a SIE [Foreign Information Service] report, that has been declassified, is like a high school kid giving a paper on potential risks to national security. Nothing concrete is provided.... The proof that there was nothing to that effect is the very fact that none of Romania's secret intelligence services ... made any criminal referral before November 24, 2024 [i.e., the day of the first round of voting].